

October 11, 2004

RECORDATION NO. 25263 FILED

OCT 28 '04

3-52 PM

SURFACE TRANSPORTATION BOARD

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Dear Mr. Williams,

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301 (a) are two (2) copies of a Bill of Sale dated as of December 8, 2003; December 23, 2003 and September 29, 2003, a primary document as defined in the Board's Rules for the Recordation of Documents.

The names and addresses of the parties to the enclosed documents are:

Lessor: Beacon Bank
401 West Superior Street
Duluth, MN 55802

Lessee: Northern Plains Railroad, INC.
100 Railroad Avenue PO Box 38
Fordville, ND 58231

A description of the railroad equipment covered by the enclosed documents are:

Three (3) GP-35 Locomotives and Five (5) GP-9 Locomotives, and One (1) GP-35 Locomotive.

See enclosed copied letter of recordation dated October 11th, 2004.

Sincerely,



Cheryl Harlow
Manager Accounting/Administration

OCT 28 '04

3-52 PM

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SURFACE TRANSPORTATION BOARD AGREEMENT OF PURCHASE AND SALE~~Agmt~~ Asset
copy 1272

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is dated as of **December 8, 2003**, by and between **Great Western Railway of Colorado, L.L.C. ("Seller")** and **Northern Plains Railroad ("Purchaser")**.

RECITALS

WHEREAS, Seller desires to sell and Purchaser desires to purchase all of Seller's right, title, and interest in and to **five GP9 EMD Locomotives identified as KSW 4916 (Frame # 5514-10), KSW 4557 (Frame # 5512-11), KSW 4436 (Frame # 5343-10), KSW 4912 (Frame # 5514-6), and KSW 4544 (Frame # 5513-6)** in accordance with the terms and conditions set forth in this Agreement;

NOW THEREFORE, in consideration of the terms and conditions set forth in this Agreement, the parties agree as follows:

1. **Purchase and Sale of Seller's Interest in The Units.** Subject to the conditions set forth in this Agreement being complied with to the satisfaction of or waived by the parties on or before the Closing Date, Seller shall sell, assign, transfer and convey the Units to Purchaser and Purchaser shall purchase the Units from Seller.
2. **Purchase Price.** The purchase price for the Units shall be \$10,000 for each locomotive (collectively the "Purchase Prices"). Purchaser shall pay to Seller the Purchase Price by check in immediately available funds, without cost to Seller, on the Closing Date.
3. **Closing Date and Delivery.** The Closing and delivery will take place upon confirmation by Seller of receipt of Purchaser's payment of the purchase price by midnight December 20, 2003, or on such other date as the parties may agree in writing ("Closing Date"). Purchaser will take delivery of the Units at Loveland, CO on the Closing Date. Purchaser is responsible for all shipping costs.
4. **Title to Units.** As of the Closing Date, Seller hereby warrants it is the lawful owner of the Units, has good and marketable title to the Units, and that the Units are free and clear of all liens, claims, encumbrances, security interests or rights of third parties of any kind, excepting and subject to any liens for personal property taxes not yet due and payable and attributable to ownership of the Units after the Closing Date. Seller covenants and agrees with Purchaser, its successors and assigns, to warrant and defend title to the Units against all and every person whomever.
5. **Sale of the Units.** On the Closing Date, all of Seller's right, title and interest in the Units shall be conveyed to Purchaser and risk of loss shall pass to Purchaser. Upon meetings requirements of Mechanical Inspection by transporting railroad. Purchaser shall accept



the Units "AS IS." Payment of the Purchase Price shall ratify and confirm to Seller that Purchaser has not inspected the Units and accepts the Units "AS IS." Purchaser agrees that Seller has not made any representations or warranties as to the physical condition or any other matter affecting or relating to the Units.

6. Indemnification.

(a) Purchaser hereby assumes liability for and agrees to defend, indemnify, protect and hold Seller and its officers, directors, employees, agents, and affiliates, harmless from and against any and all liabilities (including without limitation any obligation based on strict liability and tort), claims, suits, judgments, damages, losses, fines, penalties, costs and expenses, including attorneys' fees and costs, arising out of or in any manner connected with the ownership, use, operation or disposition of the Units on and after the Closing Date.

(b) Seller hereby assumes liability for, and agrees to defend, indemnify, protect, and hold Purchaser and its officers, directors, employees, agents, and affiliates harmless from and against any and all liabilities (including without limitation any obligation based on strict liability and tort), claims, suits, judgments, damages, losses, fines, penalties, costs, and expenses, including reasonable attorneys' fees and costs, arising out of or in any manner connected with the ownership, use or operation of the Units prior to the Closing Date, subject, however, to paragraph 7 hereof.

7. No Warranties. SELLER MAKES NO WARRANTIES, GUARANTEES OR REPRESENTATIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO THE UNITS INCLUDING, BUT NOT LIMITED TO, WARRANTIES REGARDING (1) DESIGN, QUALITY, DURABILITY, OPERATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR (2) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. PURCHASER HEREBY WAIVES ALL WARRANTIES OR LIABILITIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE RESPECTING THE UNIT, ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY IN TORT AGAINST SELLER, WHETHER ARISING FROM SELLER'S NEGLIGENCE, ACTUAL OR IMPUTED (INCLUDING BUT NOT LIMITED TO ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY FOR ANY LIABILITY OF PURCHASER TO ANY THIRD PARTY), OR FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES. THIS PARAGRAPH SHALL NOT BE MODIFIED EXCEPT BY A WRITTEN AGREEMENT EXECUTED BY SELLER.

8. Closing Documents. On the Closing Date, Seller shall deliver to the Purchaser a Bill of Sale duly executed by Seller substantially in the form attached hereto as Exhibit A, incorporated by this reference.

9. **Broker or Agent.** Each party represents it has dealt with no broker, agent or other representative in connection with this transaction.

10. **Defaults and Remedies.** If any material obligation under this Agreement is not performed as provided, there shall be the following remedies:

(a) If Purchaser is in default, at the Seller's option, Seller may (a) declare the Agreement null and void, thereby releasing both parties or (b) Seller may treat this Agreement as being in full force and effect and Seller shall have the right to an action for specific performance of the Agreement, damages or both.

(b) If Seller is in default, at the Purchaser's option, Purchaser may (a) declare the Agreement null and void, thereby releasing both parties or (b) Purchaser may treat this Agreement as being in full force and effect and Purchaser shall have the right to an action for specific performance of the Agreement.

(c) In the event of any litigation arising out of this Agreement, the court shall award to the prevailing party all reasonable costs and expenses, including reasonable attorneys' fees.

11. **Notices.** Any notices or other communications required or permitted by this Agreement shall be in writing and delivered by mail or fax as follows:

IF TO SELLER:

Great Western Railway of CO, LLC
Attn: Jim Griffiths
252 Clayton, 4th Floor
Denver, Colorado 80206
Telephone: (303) 398-0324
Facsimile: (303) 393-6516

IF TO PURCHASER:

Northern Plains Railroad
Attn: Gregg Haug
P.O. Box 38
Fordville, ND 58231
Telephone: (701)229-3330
Facsimile (701)229-3365

12. **Choice of Law.** Purchaser and Seller agree that this Agreement and the rights of the parties under it shall be governed by and construed in accordance with the laws of the State of Colorado.

13. **Future Assurances.** The parties agree to execute, acknowledge, and deliver such other instruments, documents and other materials as either party may reasonably request in order to effectuate the consummation of the transactions contemplated in this Agreement.

14. **Entire Agreement; Amendment.** This Agreement and Exhibit A attached hereto may be signed in counterpart and together constitute the entire understanding between the

parties with respect to the sale of the Units. This Agreement may not be amended, modified or changed except by instruments in writing signed by both parties.

15. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of each of the parties to this Agreement and their respective successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date shown above.

Great Western Railway of Colorado, L.L.C.

By: [Signature]
Title: Exp. Merchandiser
Date: 12/12/03

Northern Plains Railroad

By: [Signature]
Title: V.P. Pres.
Date: 12/8/03

EXHIBIT A

BILL OF SALE

THIS BILL OF SALE ("Bill of Sale") is made as of December 23, 2003 by Great Western Railway of Colorado, L.L.C. ("Seller"), in favor of Northern Plains Railroad ("Purchaser")

RECITALS

A. Seller and Purchaser have entered into an Agreement of Purchase and Sale dated as of November 2, 2003 (the "Agreement"), pursuant to which Purchaser shall purchase from Seller and Seller shall sell to Purchaser three GP35 EMD locomotives identified as #3501 frame #7727-5, #3502 frame #7727-8 and #3503 frame #7789-7 (the "Units").

B. For the purchase price of \$45,000 for #3501, \$45,000 for #3502 and \$47,500 for #3503 and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged by Seller, Seller desires to give this Bill of Sale for the purpose of effecting such purchase and sale pursuant to the provisions of the Agreement, as follows:

1. Sale of Seller's Interest in the Unit(s). Seller hereby sells, conveys, assigns and transfers the Units to Purchaser. The Units are sold as-is, subject only to the representations and warranties set forth in the Agreement, IF ANY. Seller agrees that it will at any time execute, acknowledge, and deliver any and all other acts, deeds, assignments, transfers, conveyances, powers of attorney or other instruments reasonably necessary or proper to carry out the conveyances intended to be made hereunder.

2. Warranty of Ownership. Seller hereby warrants that it is the lawful owner of the Units, has good and marketable title to the Units, and that the Units are free from all liens, claims, encumbrances, security interests or rights of third parties of any kind, excepting and subject to any liens for personal property taxes not yet due and payable. By delivery of this Bill of Sale, Seller covenants and agrees to with Purchaser, its successors and assigns, to warrant and defend title to the Units against all and every persons whomever, including reasonable attorney's fees and costs.

3. No Warranty as to Condition. SELLER MAKES NO WARRANTIES, GUARANTEES OR REPRESENTATIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO THE UNITS INCLUDING, BUT NOT LIMITED TO, WARRANTIES REGARDING (1) DESIGN, QUALITY, DURABILITY, OPERATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR (2) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.

Asset file
12/23/03

PURCHASER HEREBY WAIVES ALL WARRANTIES OR LIABILITIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE RESPECTING THE UNIT, ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY IN TORT, WHETHER ARISING FROM SELLER'S NEGLIGENCE, ACTUAL OR IMPUTED, AND ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY FOR ANY LIABILITY OF PURCHASER TO ANY THIRD PARTY, OR FOR ANY OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES. THIS PARAGRAPH SHALL NOT BE MODIFIED EXCEPT BY A WRITTEN AGREEMENT EXECUTED BY SELLER.

4. No Rights in Third Party. Nothing expressed or implied in this Bill of Sale is intended to confer upon any person, other than the parties hereto and their respective successors and assigns, any rights, remedies, obligations or liabilities under of by reason of this Bill of Sale and Assignment.

5. Successor and Assigns. This Bill of Sale is executed pursuant to the Agreement and shall be binding upon and inure to the benefits of Seller and Purchaser and their respective successors and assigns.

IN WITNESS WHEREOF, Seller has caused this Bill of Sale to be executed by its officer thereunto duly authorized as of the day and year first above written.

Great Western Railway of Colorado, L.L.C.

By: _____

Title: _____

Date: _____

Jim J. Liffman
EVP. Michael
12/23/03

12/23/03

Locomotive Bill of Sale

KNOW ALL MEN BY THESE PRESENT THAT

John Lindberg, (seller), for and in consideration of the sum of (Forty Thousand and 00/100, (\$40,000.00) lawful money of the United States to paid in the following manner

John Lindberg

The amount due to John Lindberg, will be settled by October 15, 2003 to be wire transferred, to John Lindberg account at N.B.C. Bank (see attached routing information)

The \$40,000.00 is to be paid, at the enscaling and delivery of these presents by:

**Northern Plains Railroad
100 Railroad Avenue
Fordville, ND 58231**

(Buyer), the receipt whereof is hereby acknowledged, has bargained and sold, and by these present does grant, and convey unto the said buyer the following listed property:

1 GP-35 Locomotive

1. WC 2555 - ENGINE - #4-AXEL-WEIGHT-250,000

TO HAVE AND TO HOLD the same unto the Buyer, and said Buyer's executors, administrators and assigns forever.

The Buyer is purchasing the equipment in reliance upon its personal inspection and knowledge of the equipment and in an "as is, where is" condition

THE SELLER WARRANTIES THAT (1) BUYER WILL ACQUIRE GOOD TITLE TO THE EQUIPMENT FREE FROM ALL ENCUMBERANCES AND LIENS UNRELATED TO THE OWNERSHIP OF THE EQUIPMENT BY THE BUYER, AND (2) SELLER IS THE LAWFUL OWNER OF THE EQUIPMENT AND HAS THE RIGHT TO SELL THE EQUIPMENT.

IN WITNESS WHEREOF the seller and the Buyer have caused these presents to be signed this 29TH day of SEPTEMBER, 2003.


John Lindberg, owner